IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'E' NEW DELHI

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No.5300/Del/2025
Assessment Year: 2013-14

ARVR Education Society, A-60 Basement, Malviya Nagar, South Delhi, Delhi - 110017	**Vs.**	Income Tax Officer (Exemption), Ward-1(1), New Delhi
PAN: AACAA7736N		
(Appellant)		**(Respondent)**

Assessee by	Sh. Saubhagya Agarwal, Adv. Sh. Rajkumar, Adv.
Department by	Ms. Amisha S Gupt, CIT(DR)

Date of hearing	27.04.2026
Date of pronouncement	22.05.2026

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2013-14, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2025-26/1078570521(1), dated 16.07.2025 involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance raised in the instant appeal; it transpires from a perusal of the case records that it seeks to reverse both the learned lower authorities' respective assessment and lower appellate findings treating its "corpus" donations of Rs.15.96 (crores) as unexplained cash credits u/s 68 of the Act; in Assessing Officer's assessment order and upheld in the CIT(A)'s lower appellate discussion, reading as under:

> *"8.1 I have carefully considered the facts of the case, the assessment order, the rectification order, the written submissions of the appellant, the remand report submitted by the Assessing Officer, the rejoinder filed by the appellant, and the applicable judicial precedents.*
> *8.2 The primary issue for determination is whether the sum of Rs.15.96 crores received by the appellant during the year under consideration can be regarded as corpus donation eligible for exemption under section 11(1)(d) of the Income-tax Act or is to be taxed as unexplained cash credit under section 68 of the Act.*
>
> *Treatment of Corpus Donations Received by a Trust Registered under Section 12A (Prior to the Amendment by the Finance Act, 2021 i.e., up to A.Y. 2021-22)*
>
> *According to section 11(1)(d), any voluntary contributions received by a trust or institution created wholly for charitable or religious purposes, with a specific direction that they shall form part of the corpus of the trust or institution, shall not be included in the total income.*
>
> *Section 11(1)(d) was introduced w.e.f. 01.04.1989. Simultaneously, section 2(24)(iia). which defines the term "income," was amended to include voluntary contributions within its ambit. Thus, while corpus donations were earlier considered outside the purview of "income," post the amendment, they are deemed income under section 2(24)(iia) but are specifically exempt under section 11(1)(d) provided the conditions therein are satisfied.*

Therefore, corpus donations are technically considered as income but enjoy exemption by virtue of section 11(1)(d). However, in the event of any contravention of conditions, such donations may be brought to tax.

It is a settled position of law that there are two categories of donations under sections 11 and 12:

- *Corpus donations, which are not credited to the Income and Expenditure Account; and*
- *Non-corpus (general) donations, which are credited to the Income and Expenditure Account and are taxable but eligible for exemption under sections 11/12 if applied for charitable purposes.*

Even if general donations are doubted, addition under section 68 is not attracted as they are already disclosed in the income. The Hon'ble Delhi High Court in DIT (Exemption) v. Keshav Social & Charitable Foundation [2005] 278 ITR 152 held that:

"Section 68 of the Act has no application... all receipts, other than corpus donations, would be income in the hands of the assessee. There was, therefore, full disclosure of income...

However, it was held in Asstt. CIT v. Shree Shiv Vankeshawar Educational & Social Welfare Trust [2019] 106 taxmann.com 249 (Del. Trib.) that the Keshav Foundation decision has no application in the context of corpus donations, where identity and voluntariness must be established independently.

8.3 Section 11(1)(d) allows exemption for voluntary contributions made with a specific direction that they shall form part of the corpus of the trust. For this exemption to apply, the following conditions must be satisfied:

- *The contribution must be voluntary, not received in exchange for any benefit or consideration;*
- *It must be genuine, supported by the identity and creditworthiness of the donor;*
- *It must be accompanied by a specific direction to form part of the corpus, evidenced by documentation.*

8.4 In this case, the AO relied on the MoU between the appellant and Rajiv Jain & Family, which explicitly recorded that the donors would contribute Rs. 20 crores and, in return, be allotted two management seats in the Trust. This arrangement introduces a quid pro quo, thereby negating the voluntariness of the donation. Such a conditional arrangement more closely resembles an investment or a grant with control rights, rather than a philanthropic donation.

8.5 In the remand report, the AO reiterated that:

- *The MoU evidenced a quid pro quo arrangement;*
- *No fresh confirmations or documentary proof regarding identity and capacity of the donors was provided;*
- *The donors were not produced for verification despite multiple opportunities*
- *Therefore, the donations lacked the essential characteristics of corpus donations exempt under section 11(1)(d);*
- *The addition under section 68 was justified in the absence of proof of identity, capacity, and genuineness.*

8.6 In reply, the appellant filed a rejoinder, submitting that:

- *The reference to management seats in the MoU was only indicative of a non-binding advisory role, and not enforceable;*
- *The donors were untraceable due to the passage of time and lack of cooperation, but all donations were received through verifiable banking channels;*
- *Once the donation was recorded in the books and routed through a bank, the burden shifted to the AO;*
- *The specific direction was evident from donation receipts and treatment in accounts.*

However, even accepting the appellant's argument that the reference to management seats was symbolic, the fact remains that the appellant agreed in writing to grant management rights. This undermines the claim that the contributions were purely voluntary.

8.7 After careful consideration, I find that the AO's observations in the remand report are cogent. Despite opportunities at assessment and remand stages, the appellant failed to produce or establish the identity, creditworthiness, and genuineness of the donors.

8.8 The appellant's claim that funds were received through banking channels, while relevant, is not conclusive. The Hon'ble Supreme Court in PCIT v. NRA Iron & Steel Pvt. Ltd. (2019) 103 taxmann.com 48 held that merely receiving funds via banking channels does not establish genuineness unless the identity and financial capacity of the donors are also proved. The decision emphasizes that:

- *The initial onus lies with the assessee;*
- *Proof of identity, creditworthiness, and genuineness is mandatory;*
- *Books entries and banking transactions, without substantive verification, are insufficient;*
- *The Revenue is justified in making additions under section 68 if the explanation is not satisfactory.*

The relevant paragraphs of the above decision are reproduced below:

……

"The issue which arises for determination is whether the Respondent/Assessee had discharged the primary onus to establish the genuineness of the transaction required under Section 68 of the said Act.

Section 68 of the I.T. Act (prior to the Finance Act, 2012) read as follows:

"68. Cash credits- Where any sum is found credited in the book of an Assessee maintained for any previous year, and the Assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the Assessee of that previous year (emphasis supplied) The use of the words "any sum found credited in the books" in Section 68 of the Act indicates that the section is widely worded, and includes investments made by the introduction of share capital or share premium. 8.2. As per settled law, the initial onus is on the Assessee to establish by cogent evidence the genuineness of the transaction, and credit-worthiness of the investors under Section 68 of the Act.

The assessee is expected to establish to the satisfaction of the Assessing Officer2:

Proof of Identity of the creditors; CIT v. Precision Finance Pvt. Ltd. (1994) 208 ITR 465 (Cal)

Capacity of creditors to advance money, and Genuineness of transaction This Court in the land mark case of Kale Khan Mohammad Hanif v. CIT3 and, Roshan Di Hatti v. CIT4 laid down that the onus of proving the source of a sum of money found to have been received by an assessee, is on the assessee. Once the assessee has submitted the documents relating to identity, genuineness of the transaction, and credit-worthiness, then the AO must conduct an inquiry, and call for more details before invoking Section 68. If the Assessee is not able to provide a satisfactory explanation of the nature and source, of the investments made, it is open to the Revenue to hold that it is the income of the assesse, and there would be no further burden on the revenue to show that the income is from any particular source. 8.3. With respect to the issue of genuineness of transaction, it is for the assessee to prove by cogent and credible evidence, that the investments made in share capital are genuine borrowings, since the facts are exclusively within the assessee's knowledge.

[1963] 50 ITR 1 (SC) [1977] 107 ITR (SC) The Delhi High Court in CIT v. Oasis Hospitalities Pvt.Ltd.5, held that:

"The initial onus is upon the assessee to establish three things necessary to obviate the mischief of Section 68. Those are: (i) identity of the investors; (ii) their creditworthiness/investments; and (iii) genuineness of the transaction. Only when these three ingredients are established prima facie, the department is required to undertake further exercise." It has been held that merely proving the identity of the investors does not discharge the onus of the assessee, if the capacity or credit-worthiness has not been established. In Shankar Ghosh v. ITO6, the assessee failed to prove the financial capacity of the person from whom he had allegedly taken the loan. The loan amount was rightly held to be the assessee's own undisclosed income. 8.4. Reliance was also placed on the decision of CIT v.Kamdhenu Steel & Alloys Limited and Other7 wherein the Court that:

333 ITR 119 (Delhi) (2011) [1985] 23 TTJ (Cal.) (2012) 206 Taxaman 254 (Delhi)

"38. Even in that instant case, it is projected by the Revenue that the Directorate of Income Tax (Investigation) had purportedly found such a racket of floating bogus companies with sole purpose of lending entries. But, it is unfortunate that all this exercise if going in vain as few more steps which should have been taken by the Revenue in order to find out causal connection between the case deposited in the bank accounts of the applicant banks and the assessee were not taken. It is necessary to link the assessee with the source when that link is missing, it is difficult to fasten the assessee with such a liability"

9. The Judgments cited hold that the Assessing Officer ought to conduct an independent enquiry to verify the genuineness of the credit entries.

In the present case, the Assessing Officer made an independent and detailed enquiry, including survey of the so-called investor companies from Mumbai, Kolkata and Guwahati to verify the credit-worthiness of the parties, the source of funds invested, and the genuineness of the transactions. The field reports revealed that the share-holders were either non-existent, or lacked credit-worthiness.

10. On the issue of unexplained credit entries / share capital, we have examined the following judgments:

i. In Sumati Dayal v. CIT8 this Court held that

"if the explanation offered by the assessee about the nature and source thereof is, in the opinion of the Assessing Officer, not satisfactory, there is prima facie evidence against the assessee, vis., the receipt of money, and if he fails to rebut the same, the said evidence being unrebutted can be used against him by holding that it is a receipt of an income nature. While considering the explanation of the assessee, the department cannot, however, act unreasonably" ii. In CIT v. P. Mohankala9 this Court held that:

"A bare reading of section 68 of the Income-tax Act, 1961, suggests that (i) there has to be credit of amounts in the books maintained by the assessee; (ii) such credit has to be a sum of money during the previous year; and

(iii) either (a) the assessee offers no explanation about the nature and source of such credits found in the books or (b) the explanation offered by the assessee, in the opinion of the Assessing Officer, is not satisfactory. It is only then that the sum so credited may be charged to Income-tax as the income of the assessee of that previous year.

reasonable and acceptable explanation as regards the sums found credited in the books maintained

The expression "the assessee offers no explanation" means the assessee offers no proper, by the assessee.

[1995] 214 ITR 801 (SC) 291 ITR 278

The burden is on the assessee to take the plea that, even if the explanation is not acceptable, the material and attending circumstances available on record do not justify the sum found

credited in the books being treated as a receipt of income nature." (emphasis supplied) iii. The Delhi High Court in a recent judgment delivered in PR.CIT-6, New Delhi v. NDR Promoters Pvt. Ltd. 10 upheld the additions made by the Assessing Officer on account of introducing bogus share capital into the assessee company on the facts of the case. iv. The Courts have held that in the case of cash credit entries, it is necessary for the assessee to prove not only the identity of the creditors, but also the capacity of the creditors to advance money, and establish the genuineness of the transactions. The initial onus of proof lies on the assessee. This Court in Roshan Di Hatti v. CIT11, held that if the assessee fails to discharge the onus by producing cogent evidence and explanation, the AO would be justified in making the additions back into the income of the assessee. 410 ITR 379 (1992) 2 SCC 378

v. The Guwahati High Court in Nemi Chand Kothari v.

CIT12 held that merely because a transaction takes place by cheque is not sufficient to discharge the burden. The assessee has to prove the identity of the creditors and genuineness of the transaction.:

"It cannot be said that a transaction, which takes place by way of cheque, is invariably sacrosanct. Once the assessee has proved the identity of his creditors, the genuineness of the transactions which he had with his creditors, and the creditworthiness of his creditors vis-a-vis the transactions which he had with the creditors, his burden stands discharged and the burden then shifts to the revenue to show that though covered by cheques, the amounts in question, actually belonged to, or was owned by the assessee himself (emphasis supplied) vi. In a recent judgment the Delhi High Court13 held that the credit-worthiness or genuineness of a transaction regarding share application money depends on whether the two parties are related or known to each other, or mode by which parties approached each other, whether the transaction is entered into through [2003] 264 ITR 254 (Gau.) CIT v. N.R. Portfolio (P.) Ltd.[2014] 42 taxmann.com 339/222 Taxman 157 (Mag.) (Delhi) written documentation to protect investment, whether the investor was an angel investor, the quantum of money invested, credit-worthiness of the recipient, object and purpose for which payment/investment was made, etc. The incorporation of a company, and payment by banking channel, etc. cannot in all cases tantamount to satisfactory discharge of onus. vii. Other cases where the issue of share application money received by an assessee was examined in the context of Section 68 are CIT v. Divine Leasing & Financing Ltd. 14, and CIT v. Value Capital Service (P.) Ltd. 15"

……

8.9 Hence in the light of the above caselaw, the existence of donation receipts or mere book entries in the corpus fund cannot discharge the burden under section 68, particularly where summons issued under section 131 to donors remained un-responded and their identity was not established.

8.10 The appellant's claim that it is registered under section 12A does not absolve it from the responsibility of substantiating substantial corpus donations. Even registered trusts are obligated to establish the genuineness of their receipts, especially where a significant portion of their funding comes from unverifiable sources.

8.11 In view of the above, I am in agreement with the AO that the appellant has failed to discharge the initial onus under section 68 of the IT Act. The contribution in question cannot be regarded as a voluntary corpus donation under section 11(1)(d). due to:

- *The conditional nature of the contribution as evidenced by the MoU;*
- *The absence of identity, capacity, and confirmation of the donors;*
- *The lack of genuineness in the overall transaction.*

8.12 The rectification made under section 154, enhancing the addition by Rs.51 lakhs, was based on an arithmetical correction and does not involve any debatable issue. Hence, the rectification is valid and sustainable.

9. Conclusion

9.1 In view of the above facts, legal position, and after considering the assessment order, rectification order, remand report of the AO, and the appellant's rejoinder, I find no infirmity in the AO's action in treating the alleged corpus donation of Rs. 15.96 crores as unexplained cash credit under section 68 of the Act.

9.2 Accordingly, the addition is confirmed and the appeal is dismissed."

This is what leaves the assessee aggrieved.

3. We have given our thoughtful consideration to the assessee's and the Revenue's vehement submissions reiterating their respective stands against and in support of the impugned addition. We make it clear that there is no dispute between the parties that the assessee is a charitable society duly enjoying section 12A as well as section 80G registration; as the case may be. And that it had claimed the amounts received from four parties, through cheques who had further filed their confirmations, bank details, bank statements with RTGS, banker certificates, MCA master data of corporate donors, MOU dated 06.12.2012 as corpus donations followed by the relevant utilization thereof as in the nature of application of funds.

The first and foremost question which arises for the tribunal's apt adjudication herein is as to whether such a disallowance of corpus donation claim raised under section 11(1)(d) of the Act could attract section 68 unexplained cash credit additions or not.

4. The assessee invites our attention to DIT Vs. Keshav Social Charitable Foundation [2005] 146 Taxman 569 (Del), DIT Vs. Hans Raj Samarak Society [2013] 35 taxmann.com 642 (Delhi) and CIT Vs. Uttaranchal Welfare Society [2014] 42 taxmann.com 361 (All)

that the learned departmental authorities could not invoke section 68 as are the facts in the assessee's case. We notice in this factual backdrop that hon'ble jurisdiction high court in DIT Vs. Keshav Social Charitable Foundation (supra) has rejected the Revenue's very stand, reading as under:

> *"2. The assessed is a charitable trust and its main activity is to provide medical advise to the poor and needy in various parts of Uttar Pradesh. It has mobile vans and its doctors visit remote villages in these mobile vans.*
> *3. During the relevant previous year, the assessed received donations amounting to Rs. 18,24,200. The assessed was asked to furnish details of these donations, that is, the names and addresses of the donors and the mode of receipt of donations. It is noted in the assessment order dated 29-3-1994 that the assessed was unable to satisfactorily explain the donations and the donors were perhaps fictitious persons. The assessing officer was of the opinion that the assessed had tried to introduce unaccounted money into its books by way of donations and, therefore, the amount of Rs. 18,24,200 was treated as cash credit under section 68 of the Income Tax Act, 1961 (herein after referred to as the Act). On this basis, the benefit of section I I of the Act was denied to the assessed.*
> *4. The assessed filed an appeal which was allowed by the CIT(A) by an order dated 23-2-1996. The CIT(A) was of the view that the assessing officer was not justified in treating the donations received as income under section 68 of the Act. The assessed had disclosed the donations as its income and had spent 75 per cent of the amount for charitable purposes. It was, therefore, held that the assessed had not committed any default. The CIT(A), consequently, directed the assessing officer to allow exemption to the assessed under section 11 of the Act and it was held that treating the donations of Rs. 18,24,200 as the income under section 68 of the Act was not correct.*
> *5. The revenue filed an appeal which came to be disposed of by the order under challenge.*
> *6. The ITAT was of the view that since more than 75 per cent of the donations received by the assessed were spent in charitable purposes, the addition of Rs. 18,24,200 was not correct. The ITAT appears to have accepted the submission of learned counsel for the assessed that once a donation is received, it will be deemed to be received for a charitable purpose unless the donation was received towards the corpus of the trust.*

7. Learned counsel for the revenue submitted before us that essentially what the assessed was trying to do was to launder its black money or unaccounted income by converting it into donations and it should not be permitted to do so. On this basis, it was contended that a substantial question of law has arisen whether the order of the ITAT was correct in law.

8. We are afraid that it is not possible for us to agree with the submission of learned counsel for the revenue and we are of the view that no substantial question of law arises for our consideration.

9. In S. Rm. M. Ct. M. Tiruppani Trust v. CIT (1998) 230 ITR 636 (SC), it has been held that under section 11(1) of the Act, every charitable or religious trust is entitled to deduction of certain income from its total income of the previous year. The income so exempt is the income which is applied by the charitable or religious trust to its charitable or religious purposes in India. This is, of course, subject to accumulation up to a specified maximum which, in the present case, was 25 per cent. In the appeal that we are concerned with, it has been found as a matter of fact that the assessed had applied more than 75 per cent of the donations for charitable purposes as per its objects.

10. To obtain the benefit of the exemption under section 11 of the Act, the assessed is required to show that the donations were voluntary. In the present case, the assessed had not only disclosed its donations, but had also submitted a list of donors. The fact that the complete list of donors was not filed or that the donors were not produced, does not necessarily lead to the inference that the assessed was trying to introduce unaccounted money by way of donation receipts. This is more particularly so in the facts of the case where admittedly more than 75 per cent of the donations were applied for charitable purposes.

11. Section 68 of the Act has no application to the facts of the case because the assessed had in fact disclosed the donations of Rs. 18,24,200 as its income and it cannot be disputed that all receipts, other than corpus donations, would be income in the hands of the assessed. There was, therefore, full disclosure of income by the assessed and also application of the donations for charitable purposes. It is not in dispute that the objects and activities of the assessed were charitable in nature, since it was duly registered under the provisions of section 12A of the Act.

12. For these reasons, we do not find any merit in the appeal. No substantial question of law arises. Dismissed."

5. We thus find merit in the assessee's instant sole substantive ground to rejected the Revenue's vehement submissions supporting the impugned section 68 unexplained cash credit

additions of Rs.15.96 crores in its hands as per their lordship's detailed discussion. Ordered accordingly.

All remaining pleadings between the parties stand rendered academic.

6. This assessee's appeal is allowed.

Order pronounced in the open court on 22nd May, 2026

Sd/-	***Sd/-***
(NAVEEN CHANDRA)	**(SATBEER SINGH GODARA)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 22nd May, 2026.
RK/-
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi